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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/108,506	07/01/1998	HIDEKI YASUKAWA	041-2021	2506

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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/108,506

Applicant(s)

YASUKAWA ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-18 and 22-26 is/are rejected.
- 7) ☒ Claim(s) 10, 11 and 27-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Examiner concedes an error in analyzing the applicant's claims; therefore, the finality of the previous action is withdrawn.

2. The examiner noted in the reasons of allowance that 112 6th paragraph was invoked in relation to a program table display means. After further review of the claims and specification, it has been deemed that 112 6th paragraph language is disqualified for the following reasons:

The examiner previously referred to section 2181 of the M.P.E.P. (page 2100-210). As discussed in the second paragraph, the case *Signtech USA, Ltd. Vs. Vuteck, Inc.* (50 USPQ2d 1372), stated that an "ink delivery means" is equivalent to "means for ink delivery". The examiner used this teaching to show that "program table display means" is equivalent to "means for displaying a program table", therefore by definition of means-plus-function, the function would be how the program table is displayed. However, after reviewing the cited case law, the first paragraph of the case states "and since the claim does not recite disqualifying structure, which would prevent application of section 112" the examiner has deemed that the language "comprising" following "program table display means" disqualifies invocation of 112 6th paragraph because the claim defines the specific structure for the program guide and does not rely upon the specification.

The examiner also applied 112 6th paragraph language for the remaining claims, but after further review of the specification, the language in the specification is equivalent to the broadness of the claim language.

Claim Objections

3. Claim 5 is objected to because of the following informalities: "culling a portion the data that do not need to be displayed" should read "culling a portion of the data that does not need to be displayed". Appropriate correction is required.

4. Claim 26 is objected to because of the following informalities: "means for_examining" should not have an underscore between for and examining. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-16, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard et al. (U.S. Patent No. 5,751,282) in view of Rowe et al. (U.S. Patent No. 5,812,123).

Referring to claim 1, Girard discloses a program information storage means for storing program information (see Figure 4 and Column 5, Lines 32-56).

Girard also discloses a program table display means (see Figure 38a-38d in Figure 1 and Column 3, Lines 23-24) comprising a display having at least two dimensions (see how program listings in the EPG run left to right and up and down in Figure 2) defined by a designation of at least two-axes attributes (see channel and time axis in Figure 2). Girard fails to teach an EPG that has selectable axis attributes that

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are selected from among all program information attributes, and at least two such attributes are used for two axes of a program table.

Rowe teaches an EPG with two axes attributes, where the attributes are selected from among all program information attributes (see elements 52 and 54 in Figure 2), and at least two such attributes are used for two axes of a program table (see element 56 in Figure 2 for the first axis of the program table and element 90 for the second axis of the program table). The examiner notes that when two axis attributes are selected, the corresponding programming is displayed in elements 56 and 90 of Figure 2.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Girard, using the modified EPG, as taught by Rowe, for the purpose of allowing a user to narrow the scope of displayed programming information to a more manageable number of program choices (Column 4, Lines 45-47 of Rowe).

Claim 2 corresponds to claim 1, with the additional limitations of an attribute input means, program table making means, and displaying the program guide. Rowe discloses attribute input means adapted to input attributes of two axes used for two-dimensionally display the program table (see element 40 in Figure 1 and Column 6, Lines 60-67) and program table making means for retrieving program information from program information stored in the program information storage means (as taught by Girard) on the basis of said input attributes to make the program table (see element 32 in Figure 1 and Column 6, Lines 50-59), said program information display means

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displaying the program table created by the program table making means (see element 34 in Figure 1).

Claim 3 corresponds to claim 2, with the additional limitation of the program table making means being adapted to program information stored in the program information storage means and classify said program information. Rowe teaches this limitation by showing "CATEGORY" and "SUBCATAGORIES" columns in Table I and at Column 13, Lines 1-23. Table I is used by the program table making means (element 32 in Figure 1) to select specific programs to be displayed to the user.

Claim 4 corresponds to claim 2, with the additional limitation of selecting or adding another attribute to the two-axes attributes of the program table to change over the display. Rowe teaches either adjusting element 52 or 54 in Figure 2 to a different attribute in order to change over the display (see Figure 2 and Column 9, Lines 45-65).

Claim 5 corresponds to claim 2, with the additional limitation of displaying the program table while culling a portion of the data that does not need to be displayed. Rowe teaches when two categories are chosen from element 52 and 54 in Figure 2, then only specific data is displayed in relation to those two categories, and are therefore representing "culling a portion of the data" from Table I.

Claim 6 corresponds to claim 5, with the additional limitation of restoring the original program table when displaying the program table (see "resetting" display at Column 9, Lines 54-65).

Claim 7 corresponds to claim 2, with the additional limitation of selecting an attribute relative to the program to change over the display. Rowe teaches selecting a

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sports category in order to review sports programs the user wishes to view (Column 10, Lines 18-34).

Claim 8 corresponds to claim 2, with the additional limitation of adding or deleting a new attribute from the program table in accordance with a selection of the attribute by a user or an input from another system. Rowe teaches that when a category is selected in element 52 of Figure 2, then new categories in element 54 are added (Column 9, Lines 56-59).

Claim 9 corresponds to claim 1, with the additional limitation of designating information registered by a user (see Table I of Rowe) an attribute of the program table (see Figure 2 for displaying attributes presented in Table I).

Claim 12 corresponds to claim 2, with the additional limitation of extracting attribute information from program information. Girard teaches this limitation at Column 4, Lines 41-47.

Claim 13 corresponds to claim 2, with the additional limitation of displaying pictures or sounds of a program (see Column 3, Lines 8-10 of Girard).

Claim 14 corresponds to claim 2, with the additional limitation when a channel or program is selected as an attribute of the program table (see Column 9, Lines 45-52 of Rowe), it is possible to change the channel to the picture of the program and information relative to the program is displayed (see Column 18, Lines 29-34 of Rowe), and only information relative to the program is displayed if the program is not being received (see Column 18, Lines 34-40 of Rowe).

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Claim 15 corresponds to claim 2, with the additional limitation of selecting a channel as an attribute of a program table (see element 66 of Figure 2 of Rowe), and displaying advertisements and program related information in accordance with the time schedule of programs being broadcast over the channel (see element 94 and the time displayed in element 66 in Figure 2 of Rowe).

Claim 16 corresponds to claim 2, with the additional limitation of transmitting or receiving a program (see Column 4, Lines 34-36 of Girard).

Claim 25 corresponds to claim 2, with the additional limitation of recording program information and correlating this information with descriptive information for all programs. Rowe discloses recording information of the program viewed by a user (see Table I), and means for examining a relationship with recorded program information in all programs (see when two categories are selected comparing all the programs to determine which programs relate to the two selected categories at Column 10, Lines 18-34 of Rowe) and means for displaying the program when it is judged that the relationship is high (Column 10, Lines 27-31 of Rowe).

Claim 26 corresponds to claim 2, with the additional limitation of determining whether a performer of the program appears on a certain day or not. Girard teaches an "Actor" field and the time and day of a program in Figure 4.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Girard et al. (U.S. Patent No. 5,751,282) in view of Rowe et al. (U.S. Patent No. 5,812,123) in further view of Official Notice.

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Claim 17 corresponds to claim 2, with the additional limitation of receiving an image sequence made by a user and means for displaying the image sequence in a portion of the program table. Rowe teaches displaying an image sequence in a preview window of the program table at Column 14, Lines 23-58, but fails to teach creating the image sequence. The examiner takes Official Notice that a user can create advertisements for displaying on an EPG for the purpose of only displaying advertisements that are of interest to a user.

7. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girard et al. (U.S. Patent No. 5,751,282) in view of Rowe et al. (U.S. Patent No. 5,812,123) in further view of Rauch et al. (U.S. Patent No. 5,731,844).

Claim 23 corresponds to claim 2, with the additional limitation of a means for recording, reserving for recording, and playing back a designated program in accordance with a designation by a user. Girard and Rowe teach all of the limitations in claim 2, as well as playing back a user designated program (see Column 3, Lines 55-64 of Girard), but fails to teach recording or reserving a program for recording, which has been designated by a user.

Rauch teaches recording a program reserved by a user prior to broadcast (Column 3, Lines 29-40). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the modified EPG, as taught by Girard and Rowe, using the video recorder, as taught by Rauch, for the purpose of allowing a user to record a program for later viewing, allowing the user to view a program at his/her leisure.

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Claim 24 directly relates to claim 23 and corresponds to claim 2, with the additional limitation of displaying programs that have been recorded or reserved for recording along the time line of a program table (Column 3, Lines 56-58 of Rauch).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 20-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Girard et al. (U.S. Patent No. 5,751,282).

Referring to claim 20, Girard discloses means for transmitting or receiving said program information (Column 3, Lines 11-12).

Girard also discloses means for maintaining a user attribute (Column 6, Lines 59-60 shows the user making a request, and Lines 60-62 shows the system maintaining this user attribute by making a request to the SQL server), that is adapted to retrieve program information including an index for retrieving a program on the basis of the user attribute, at the receiver side (Column 6, Lines 60-67 and Column 7, Lines 1-4).

Referring to claim 21, Girard discloses program information including an index for retrieving a program and means for receiving program information (see rejection of claim 21).

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Girard also discloses determining if the program information was not received at the receiver side (see selecting a future program at Column 7, Lines 24-46). The examiner notes that it is inherent that it must be decided if the receiver needs to retrieve a program if it does not reside at the receiver (in the case of selecting a past or future program). Therefore, a determination is made if program information has been received, if a current program is not selected.

Girard also discloses that if the program has not been received for immediate use, retrieving the program from the transmitter side (see retrieving a past and future program in Figures 7 and 8 and Column 6, Lines 46-67 and Column 7, Lines 1-4).

Girard also discloses means at the transmitter side for classifying program information (see SQL database at Column 5, Lines 33-55).

Girard also discloses means for transmitting the result to the receiver side (Column 6, Lines 29-33).

Referring to claim 22, see rejection of claims 20 and 21.

Allowable Subject Matter

9. Claims 10-11, and 27-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claims 27 and 28, Lawler was considered to provide the additional limitations of calculating a fitting degree. But Lawler only discloses calculating a fitting degree for program classification information. Therefore, Lawler does not provide

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calculating a fitting degree between program information and each piece of program classification information.

Referring to claim 29, the prior art of record teaches extracting keywords to form a subset of program information, but fails to teach further extracting keywords from the subset.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Payton (U.S. Patent No. 5,790,935) discloses a collaborative filtering system used to predict programming that a user would like to view.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

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February 5, 2003

Chris Grant
CHRIS GRANT
PRIMARY EXAMINER